

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

DANIEL WALKER, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

FRED MEYER, INC.,

Defendant.

Case No. 3:17-cv-1791-YY

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Youlee Yim You issued Findings and Recommendation (F&R) in this case on August 13, 2021. ECF 72. Judge You recommended that the Court grant Defendant’s motion for partial summary judgment. ECF 57.

Under the Federal Magistrates Act (“Act”), the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party files an objection to a magistrate’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review de novo magistrate’s findings and recommendations if objection is made, “but not otherwise”). Although in the absence of objections no review is required, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the Court review the magistrate judge’s recommendations for “clear error on the face of the record.”

Plaintiff timely filed an objection. ECF 75. Plaintiff argues that the F&R misconstrued Ninth Circuit authority on the “willful” requirement of the Fair Credit Reporting Act (FCRA) and misapplied the FCRA’s “clear and conspicuous” requirement. The Court has reviewed *de novo* those portions of Judge You’s Findings and Recommendation to which Plaintiff as objected, and Defendant’s response. The Court agrees with Judge You.

The Court **ADOPTS** Judge You’s Findings and Recommendation. ECF 72. The Court **GRANTS** Defendant’s motion for partial summary judgment. ECF 57.

IT IS SO ORDERED.

DATED this 24th day of September, 2021.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge